



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET N.W.  
WASHINGTON, DC 20554

News media Information 202/418-0500. Recorded listing of releases and texts 202/418-2222.

DA 98-1114

Report No. SPB-128

June 12, 1998

INTERNATIONAL BUREAU  
SATELLITE POLICY BRANCH INFORMATION:

**INTERNATIONAL BUREAU ANNOUNCES CONCLUSION OF U.S.-ARGENTINA  
FRAMEWORK AGREEMENT AND PROTOCOL FOR  
DIRECT-TO-HOME SATELLITE SERVICES AND FIXED-SATELLITE SERVICES**

On June 5, 1998, the United States and Argentina signed the "Agreement Between the Government of the United States of America and the Government of the Argentine Republic Concerning the Provision of Satellite Facilities and the Transmission and Reception of Signals to and from Satellites for the Provision of Satellite Services to Users in the United States of America and the Republic of Argentina" (the "Agreement"). The purpose of the Agreement is to "facilitate the provision of services to, from and within the United States and Argentina via commercial satellites...and to establish the conditions relating to the use in both countries of satellites licensed by the United States or Argentina." (Agreement, Article 2).

The Agreement provides for the inclusion of a Protocol covering particular satellite services. The United States and Argentina concurrently signed the "Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services and Fixed-Satellite Services in the United States of America and the Argentine Republic" (the "Protocol"). The Protocol addresses the provision of direct broadcast satellite (DBS), direct-to-home fixed-satellite services (DTH-FSS) and other fixed-satellite services (FSS) to, from, and within the United States and Argentina. The Agreement and Protocol entered into force upon signature.

In addition, FCC Chairman Kennard and Secretary of Communications Kammerath and Chairman Aiello of the Federal Broadcasting Committee of Argentina exchanged letters detailing the procedures and rules governing the licensing of DBS, DTH-FSS, and FSS in their respective countries.

The Agreement, Protocol, and letters are available for viewing and copying in Room 102, 2000 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS Inc., 202-857-3800. For additional information, please contact Chris Murphy (202-418-2373) or Tom Boasberg (202-418-2169) of the International Bureau.

- FCC -

13 FCC Rcd 16581

**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND  
THE GOVERNMENT OF THE ARGENTINE REPUBLIC  
CONCERNING THE PROVISION OF SATELLITE FACILITIES AND THE  
TRANSMISSION AND RECEPTION OF SIGNALS TO AND FROM SATELLITES  
FOR THE PROVISION OF SATELLITE SERVICES TO USERS  
IN THE UNITED STATES OF AMERICA AND THE ARGENTINE REPUBLIC**

Recognizing the sovereign right of both countries to manage and regulate their satellite communications;

Taking into account the "Special Arrangements" provisions of the International Telecommunication Union's Basic Instruments;

In accordance with the provisions of Article 7 of the International Telecommunication Union's Radio Regulations ("ITU Radio Regulations");

Recognizing the increasing opportunities for the provision of satellite services in the United States of America ("United States") and the Argentine Republic ("Argentina"), the growing needs of the satellite communications industries of both countries, and the public interest in development of those services;

In order to establish the conditions for the provision of commercial satellite facilities and for the transmission and reception of signals to and from satellites for the provision of commercial satellite services to users in the United States and Argentina;

The Government of the United States of America and the Government of the Argentine Republic (the "Parties") have agreed as follows:

ARTICLE I. Purposes

The purposes of this Agreement are:

To facilitate the provision of services to, from and within the United States and Argentina via commercial satellites licensed and coordinated by the Parties pursuant to ITU Radio Regulations; and

2. To establish the conditions relating to the use in both countries of satellites licensed by the United States or Argentina.

ARTICLE II. Definitions

As used in this Agreement and annexed Protocol,

1. "Space Station" means a station located on an object which is beyond, is intended to go beyond, or has been beyond the major portion of the Earth's atmosphere.
2. "Satellite" or "Satellite Facilities" means a Space Station providing the facilities for commercial communications services, which is licensed by a Party or one of its Administrations, as appropriate, and whose technical characteristics (including, but not limited to, spectrum and orbital assignments and transmission parameters) are coordinated and implemented pursuant to the ITU Radio Regulations by the same Party or its Administration, as appropriate.
3. "Satellite Service" means any radiocommunications service involving the use of one or more Satellites.
4. "Satellite Service Provider" means an individual or legal entity licensed by a Party or its Administration, as appropriate, to provide Satellite Services within the territory, territorial waters or national airspace of a Party.
5. "Satellite Facilities Provider" is a term used by the Argentine Administration that means an individual or legal entity licensed by a Party or its Administration, as appropriate, to provide Satellite Facilities.

7. "Earth Station" means a station located either on the Earth's surface or within the major portion of the Earth's atmosphere and intended for communication with one or more Satellites, or with one or more Earth Stations of the same kind by means of one or more reflecting Satellites or other objects in space.
8. "License" means the concession, authorization, or permit granted to an individual or legal entity by a Party or its Administration, as appropriate, which confers the authority to operate a Satellite, Earth Station or Satellite Service.
9. "Blanket License" means an authorization from a Party or its Administration, as appropriate, for a large number of technically identical Earth Stations for a specific Satellite Service.
10. "Protocol" shall have the meaning set forth in Article IV (2).
1. "Administration" shall have the meaning set forth in Article III (2).

#### ARTICLE III. Implementing Entities

1. The entities responsible for implementing this Agreement, herein referred to as the Authorities, shall be, for the United States, the Department of State, and for Argentina, the Secretaria de Comunicaciones.
2. The entities responsible for implementing the Protocol included in the Annex to this Agreement, herein referred to as the Administrations, shall be as designated by the Authorities in the Protocol.

#### ARTICLE IV. Conditions of Use

1. The United States and Argentina each have laws, regulations and policies that govern entities providing Satellite Services to, from and within their respective territories. The Parties have analyzed and compared their respective laws on these matters. On the basis of this comparison and analysis, the Parties have concluded that it is appropriate to enter into a Bilateral Reciprocity Agreement concerning the transmission and reception of signals from Satellites for the provision of Satellite Services in their two countries, and to establish a Protocol to this Agreement in order to address particular kinds of Satellite Services. Therefore, pursuant to this Agreement:

- 1.1 Argentine-licensed Satellites will be permitted to provide service to, from and within the United States, in conformance with applicable provisions of U.S. laws, rules, regulations, and licensing procedures.
- .2 U.S.-licensed Satellites will be permitted to provide service to, from and within Argentina, in conformance with applicable provisions of Argentine laws, rules, regulations, and licensing procedures.
2. The conditions for the transmission and reception of signals from Satellites licensed by each Party or Administration shall comply with national laws and regulations and shall be as agreed in the annexed Protocol, which will render this Agreement operational and will form an integral part of this Agreement.
3. For the purpose of this Agreement, the Parties agree that U.S.- or Argentine-licensed entities that operate commercial Satellites and Earth Stations may be established with either public or private participation in conformity with the legal and regulatory provisions of each country.
4. A Party shall not require a Satellite licensed by the other Party to be relicensed for the operation of the Satellite in order to provide the Satellite Services described in the annexed Protocol. The authorization of Satellite Facility Providers, as required under Argentine regulations, shall not be considered an additional License for purposes of this provision. The submission of legal and technical data required to obtain such authorization will have the purpose of establishing a registry of Satellite Facility Providers.
5. Each Party shall apply its laws, regulations, rules, and licensing procedures in a transparent and non-discriminatory manner to the Satellites licensed by either Party, and among all entities who apply for a License to transmit and/or receive signals (including Licenses to own and operate Earth Stations) via Satellites licensed by either Party.

#### ARTICLE V. Technical Coordination

The ITU Radio Regulations are the basis for the technical coordination of Satellites. After a Party or its Administration, as appropriate, has initiated the required coordination procedures pursuant to the ITU Radio Regulations, the Parties or their Administrations, as appropriate, will, in good faith, undertake to effect the coordination of the concerned Satellites in a timely, cooperative and mutually acceptable manner.

2. The Parties agree that technical coordination procedures shall be carried out for purposes of

use, and agree to cooperate in the technical coordination of new satellites to accommodate the growing national and international communications needs of the satellite industry of each country.

ARTICLE VI. Foreign Ownership

Any foreign ownership restrictions on Earth Stations and Satellite Service Providers operating within the territory of a Party are defined by the laws and regulations of that Party. For the United States, foreign ownership rules are at present contained in Title 47 of the United States Code (in particular, 47 U.S.C. Section 310), and other U.S. regulations and case law. For Argentina, foreign ownership rules are at present contained in Law 21,382 (Texto Ordenado 1993) and Decreto 1.853/93, and other Argentine regulations and case law.

ARTICLE VII. Essential Security Exception

This Agreement and its Protocol shall not preclude the application by either Party of actions that it considers necessary for the protection of its essential security interests or to the fulfillment of its obligations under the Charter of the United Nations with respect to the maintenance or restoration of international peace or security.

ARTICLE VIII. Cooperation

The Parties shall cooperate in seeking to ensure respect for the laws and regulations of the other Party relating to the services that are encompassed by this Agreement and the annexed Protocol.

ARTICLE IX. Amendment of the Agreement and Protocol

This Agreement may be amended by agreement of the Parties. Amendments shall enter into force on the date on which both Parties have notified each other by exchange of diplomatic notes that they have complied with the requirements of their respective national legislation.

2. The annexed Protocol may be amended by written agreement of the Administrations.

ARTICLE X. Entry into Force and Duration

This Agreement shall enter into force upon signature.

2. The Agreement shall remain in force until it is replaced by a new agreement or until it is

ARTICLE XI. Termination of the Agreement

This Agreement may be terminated by mutual agreement of the Parties, or by either Party by written notice of termination to the other Party through diplomatic channels. Such notice of termination shall enter into effect six months after receipt of the notice.

2. The Protocol annexed to this Agreement may be terminated by agreement of the Administrations, or by either Administration by written notice of termination to the other Administration(s). Such notice of termination shall enter into effect six months after receipt of the notice. If more than one Administration has been designated pursuant to Article III (2), the Administration responsible for coordination with the Administration of the other Party shall provide such notice.
3. In addition to the provisions in paragraph 2 of this Article, this Protocol may be terminated upon sixty days written notice if a Party determines that the other Party has failed to conform to the principles set forth in Article VI of the Protocol.

**IN WITNESS WHEREOF, the respective representatives have signed the present Agreement.**

Done at Washington, this fifth day of June, 1998, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:

*Alan Larson*  
*Walter Kempf*

FOR THE GOVERNMENT OF THE  
ARGENTINE REPUBLIC:

*[Signature]*

**PROTOCOL CONCERNING THE  
TRANSMISSION AND RECEPTION OF SIGNALS FROM SATELLITES  
FOR THE PROVISION OF  
DIRECT-TO-HOME SATELLITE SERVICES AND  
FIXED-SATELLITE SERVICES  
IN THE UNITED STATES OF AMERICA AND THE ARGENTINE REPUBLIC**

Recognizing the long-standing bonds of friendship and cooperation between the Governments of the United States of America and the Argentine Republic;

Pursuant to the Agreement Between the Government of the United States of America and the Government of the Argentine Republic Concerning the Provision of Satellite Facilities and the Transmission and Reception of Signals to and from Satellites for the Provision of Satellite Services to Users in the United States of America and the Argentine Republic, signed March 5, 1998 (herein referred to as the "Agreement");

Noting the increasing opportunities for the provision of satellite services in the United States of America ("United States") and the Argentine Republic ("Argentina"), the growing needs of the satellite communications industries of both countries, and the public interest in development of those services;

Emphasizing that there has been a long-standing and successful bilateral relationship in coordinating the respective satellite systems of both countries through the International Telecommunication Union (ITU), and that both Parties will apply these same positive efforts and expertise in the pending and future coordination of Satellites licensed by the Parties which are subject to this Protocol to enhance the benefits of the Protocol for both Parties; and

In order to establish the conditions for the transmission and reception of signals from Satellites licensed by the Parties for the provision of Direct-to-Home Fixed-Satellite Services, other Fixed-Satellite Services, and Broadcasting-Satellite Services to users in the United States and Argentina;



The Government of the United States of America and the Government of the Argentine Republic (the "Parties") have agreed as follows:

ARTICLE I. Purposes

The purposes of this Protocol are:

To establish conditions and technical criteria for the use of U.S.- or Argentine-licensed Satellites and Earth Stations for the delivery of Direct-to-Home Fixed-Satellite Services, other Fixed-Satellite Services, and Broadcasting-Satellite Services (all as defined herein) to, from, and within the territories of the Parties; and

2. To facilitate the provision of such services to, from, and within the United States and Argentina via commercial Satellites licensed by the Parties.

ARTICLE II. Definitions

The terms defined in the Agreement are applicable to this Protocol. In addition, for the purposes of the Protocol,

1. "Direct-to-Home Fixed-Satellite Services" ("DTH-FSS") and "Broadcasting-Satellite Services" ("BSS") mean one-way, encrypted radiocommunication signals that are transmitted by Satellites licensed by either Party for direct reception by subscribers.
  2. "Fixed-Satellite Services" ("FSS") mean any radiocommunication signals that are transmitted and/or received by earth stations, located at specified fixed positions or at any fixed point within a specified area, using one or more Satellites licensed by either Party. These signals may also include Feeder Links for other space radiocommunication services. As used in this Protocol, FSS:
    2. includes, but is not limited to, signals distributed to cable television head-end and multi-point distribution service (restricted microwave television service) facilities.
    - 2.2 does not include the delivery of DTH-FSS or BSS as defined above.
- 3 "Advance Published," "Coordination" and "Feeder Links" shall have the meanings given to such terms in the ITU Radio Regulations.

ARTICLE III. Implementing Entities

As provided for in Article III(2) of the Agreement, the Administrations shall be the Federal Communications Commission (FCC) of the United States and the Secretaria de Comunicaciones (SC) and the Comite Federal de Radiodifusion (COMFER) of Argentina.

ARTICLE IV. DTH-FSS, BSS, and FSS Frequencies

1. This Protocol applies to the use of the frequency bands typically paired as set forth in the Appendix.
2. This Protocol only addresses the frequency bands in the Appendix.

ARTICLE V. Conditions of Use

1. Licenses for DTH-FSS, BSS, and other FSS signals shall be issued as efficiently and expeditiously as possible by the Administrations; including, if applicable, Blanket Licenses for transmit and/or receive Earth Stations.
2. Each Party shall apply its laws, regulations, rules, and licensing procedures in a transparent and non-discriminatory manner to the Satellites licensed by either Party, and among all entities which apply for a License to transmit and/or receive DTH-FSS, BSS, or other FSS signals (including Licenses for transmit/receive and receive-only Earth Stations) via Satellites licensed by either Party.
3. Non-conformance to the applicable laws, regulations, rules, and licensing procedures of a Party may result in loss of the License granted by that Party.
4. The principal applicable laws, regulations, rules, and licensing procedures for each of the Parties are indicated below:
  4. For the United States, the laws, regulations, rules, and licensing procedures for the grant of Licenses in the United States to transmit or receive DTH-FSS, BSS, or other FSS signals (including Licenses for U.S. transmit/receive and receive-only Earth Stations) via Satellites licensed by the Parties, to be applied in a manner consistent with Article VI of this Protocol, include the Communications Act of 1934, as amended; 47 U.S. Code of Federal Regulations, Parts 2, 25, 76 and 100; the Manual of Regulations and Procedures for Federal Radio Frequency Management; and any other laws,

regulations, rules, and licensing procedures of the United States, present and future, related to these services.

4.2 For Argentina, the laws, regulations, rules, and licensing procedures for the grant of Licenses in Argentina to transmit or receive DTH-FSS, BSS, or other FSS signals (including Licenses for Argentine transmit/receive and receive-only Earth Stations) via Satellites licensed by the Parties, to be applied in a manner consistent with Article VI of this Protocol, include the Ley de Telecomunicaciones 19.798; the Ley Federal de Radiodifusion No. 22.285; Decreto 62/90; Decreto 264/98; Resolucion 1913/95 of the former Comision Nacional de Telecomunicaciones (CNT); Resoluciones 477/93, 14/97, 242/97 and 1118/98 of the Secretaria de Comunicaciones; and any other laws; regulations, rules, and licensing procedures of Argentina, present and future, related to these services.

4.3 The Administrations will exchange the most up-to-date official texts of national laws, regulations, rules, and licensing procedures related to DTH-FSS, BSS, or other FSS at the time of signature of this Protocol, and on June 1 of every year thereafter.

5. DTH-FSS, BSS and other FSS signals may be provided for transmission and/or reception within and/or between the territories of the Parties. DTH-FSS, BSS and other FSS signals intended for reception in the territory of a Party need not be transmitted from an Earth Station located within the territory of that Party.

6. DTH-FSS, BSS, and other FSS signals may be provided for transmission and/or reception between either Party and third countries. Transmission or reception of such signals to or from third countries shall be subject to each Party's applicable laws, regulations, rules, and licensing procedures, applied in a non-discriminatory and transparent manner.

7. Nothing in this Protocol shall be construed to permit interim or permanent limits on the number of:

7.1 DTH-FSS, BSS, or other FSS Satellites licensed by the Parties which may transmit to, from, and/or within the territory of either Party pursuant to this Protocol or the Agreement;

7.2 entities granted a License in the United States to transmit and/or receive DTH-FSS, BSS, or other FSS signals via Satellites licensed by the Parties (including Licenses for U.S. transmit/receive and receive-only earth stations communicating with such

7.3 entities granted a License in Argentina to transmit and/or receive DTH-FSS, BSS, or other FSS signals via Satellites licensed by the Parties (including Licenses for Argentine transmit/receive and receive-only Earth Stations communicating with such Satellites).

8. Each Administration shall permit DTH-FSS, BSS, or other FSS signals to be delivered directly to or from Earth Stations through Satellites licensed by either Party without requiring retransmission over an intermediary satellite system, or through an intermediary Earth Station operator.
9. This Protocol does not affect the rights of the Parties to apply their respective laws, regulations, rules, and licensing procedures governing the provision of cable television service and multi-point distribution services to end users.

#### ARTICLE VI. Programming and Advertising

Neither Party shall impose significant restrictions on the amount or origin of advertising and program content for DTH-FSS and BSS services. In this regard, the following key principles shall apply:

- 1.1 Any requirements for domestic program content and/or education and public interest programming should be limited to a modicum of the total program channels of these multi-channel DTH-FSS and BSS systems. Any such requirements may be met on a system-wide basis, that is, they do not need to be met on a per-channel basis.
- 2 Each Party acknowledges that a Party may impose non-discriminatory restrictions on program content and advertising, such as material involving obscenity, indecency, national security, and public health and safety concerns. Restrictions on the amount or origin of programming and advertising transmitted through DTH-FSS or BSS services will not materially hinder the distribution of programming and advertising to the national market of either Party or to the regional market.

#### ARTICLE VII. Technical Coordination Procedures

Nothing in this Protocol shall affect the rights and obligations of a Party to frequency assignments and associated orbit positions already assigned to it in accordance with the ITU Radio Regulations, including Appendices 30, 30A and/or 30B.

2. Nothing in this Protocol shall affect the rights and obligations of a Party regarding the technical Coordination of frequencies and associated orbit positions of Satellites of the other Party, or third Parties not covered by this Protocol, pursuant to the ITU Radio Regulations.
3. Any Satellite licensed by one of the Parties that is Advance Published, in Coordination or in operation in accordance with the relevant ITU Radio Regulations, shall continue to have its appropriate status under the ITU Radio Regulations, notwithstanding the provisions of this Protocol.
4. Each Administration agrees to exert its best efforts to assist the other Administration in the technical Coordination of new, and modifications to current, satellite network frequency assignments and associated orbit positions. Each Administration shall concur with the requests of the other Administration made through the ITU for Coordination of satellite networks, and modifications thereto, provided that such requests are consistent with ITU Rules and Regulations and applicable national technical rules and regulations, and result in technical compatibility of the affected satellite networks and terrestrial systems of the Administrations.
5. This Protocol shall not obligate either Administration to require that any operator of a Satellite licensed by one of the Parties substantially alter its ongoing operations and technical characteristics in order to accommodate new Satellites licensed by the Parties for the provision of DTH-FSS, BSS, or other FSS.
6. In the event that there is harmful interference to a Satellite licensed by one of the Parties, notification shall be made to the Administration responsible for licensing the interfering Satellite. Both Administrations shall analyze the information on the interfering signal, shall consult on solutions, and shall seek to agree on the appropriate actions to resolve the interference.

ARTICLE VIII. DTH-FSS, BSS and Other FSS Related Authorizations

The United States agrees to permit Satellites licensed by Argentina to provide DTH-FSS, BSS and other FSS signals to, from, and within the United States. In order to receive a License in the United States to transmit or receive DTH-FSS, BSS or other FSS signals (including Licenses for U.S. transmit/receive and receive-only Earth Stations) via Satellites licensed by the Parties, entities must comply with applicable U.S. laws, regulations, rules, and licensing procedures.

2. Argentina agrees to permit Satellites licensed by the United States to provide DTH-FSS, BSS

transmit or receive DTH-FSS, BSS or other FSS signals (including Licenses for Argentine transmit/receive and receive-only Earth Stations) via Satellites licensed by the Parties, entities must comply with applicable Argentine laws, regulations, rules, and licensing procedures.

ARTICLE IX. Entry into Force, Amendment and Termination

The Protocol shall enter into force upon entry into force of the Agreement and shall remain in force so long as the Agreement is in force.

2. The Appendix to this Protocol may be amended by an exchange of letters between the Administrations.
3. Subject to paragraph 1 of this Article, this Protocol shall remain in force until it is replaced by a new Protocol, or until it is terminated in accordance with Article XI of the Agreement.
4. Upon termination of this Protocol, an Administration may, at its discretion, terminate any License that had been issued pursuant to this Protocol.

IN WITNESS WHEREOF, the respective representatives have signed the present Agreement.

Done at Washington, this fifth day of June, 1998, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:

*Alan Larson*  
*Willi Kempf*

FOR THE GOVERNMENT OF THE  
ARGENTINE REPUBLIC:

*Jose Wilfredo*  
*[Signature]*

## APPENDIX

1. The following frequency bands are referred to for DTH-FSS and BSS in Article IV of this Protocol<sup>1</sup> :

For DTH-FSS services:

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
5.925 - 6.425 GHz	3.7 - 4.2 GHz
6.725 - 7.025 GHz	4.5 - 4.8 GHz
12.75 - 13.25 GHz	10.70 - 10.95 GHz
	11.20 - 11.45 GHz
13.75 - 14.0 GHz	11.45 - 11.70 GHz
	10.95 - 11.20 GHz
14.0 - 14.50 GHz	11.70 - 12.20 GHz

For BSS services:

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
17.30 - 17.80 GHz	12.20 - 12.70 GHz

---

<sup>1</sup> Consistent with Article V, Paragraph 4 of this Protocol, the use of the frequency bands listed below must comply with applicable U.S. and Argentine laws, regulations, rules, and licensing procedures, the ITU Radio Regulations, the conditions set forth in this Protocol and the respective national frequency allocation tables. Note that in specific geographic areas, coordination involving specific systems currently operating in these frequency bands will be necessary.

2. The following frequency bands are referred to for other FSS in Article IV of this Protocol<sup>2</sup>:

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
5.925 - 6.425 GHz	3.7 - 4.2 GHz
6.425 - 6.725 GHz	3.4 - 3.7 GHz
6.725 - 7.025 GHz	4.5 - 4.8 GHz
5.091 - 5.250 GHz	6.700 - 7.075 GHz
12.75 - 13.25 GHz	10.70 - 10.95 GHz
	11.20 - 11.45 GHz
13.75 - 14.0 GHz	11.45 - 11.70 GHz
	10.95 - 11.20 GHz
14.0 - 14.50 GHz	11.70 - 12.20 GHz
15.43 - 15.63 GHz	
27.5 - 30.0 GHz	17.7 - 20.2 GHz

---

<sup>2</sup> Consistent with Article V, Paragraph 4 of this Protocol, the use of the frequency bands listed below must comply with applicable U.S. and Argentine laws, regulations, rules, and licensing procedures, the ITU Radio Regulations, the conditions set forth in this Protocol and the respective national frequency allocation tables. Note that in specific geographic areas, coordination involving specific systems currently operating in these frequency bands will be necessary.



**U.S. Department of State  
Office of Language Services  
Translating Division**

**LS No. 068116  
JPM/JF  
Spanish**

**Buenos Aires, June 5, 1998**

**Mr. William Kennard  
Chairman, Federal Communications Commission  
Washington, D.C.**

**Dear Mr. Kennard:**

I am pleased to refer to the procedures for national implementation of the commitments in the "Agreement between the Government of the Argentine Republic and the Government of the United States of America concerning the Provision of Satellite Facilities and the Transmission and Reception of Signals to and from Satellites for the Provision of Satellite Services to Users in the Argentine Republic and the United States of America" and its "Protocol concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services and Fixed-Satellite Services in the Argentine Republic and the United States of America."

Based on these commitments, we are sending this letter, which spells out, effectively, succinctly, and systematically, the steps a United States firm would have to complete in Argentina to obtain the licenses and authorizations required under our regulations in order to provide the services referred to in the Agreement and Protocol our governments are to sign.

The letter is arranged in a numbered outline format, in which each point describes the steps required by the Argentine Administration. We hope that any government official or entity wishing to explore the possibilities our agreement offers will find the text easy enough to understand:

1. Relationship between the Agreement and existing Decisions in Argentina

The Agreement and its Protocol shall take precedence over any regulation or rule relating to satellites, earth stations, authorizations, or licenses, that is inconsistent therewith. The Argentine Government shall implement all provisions of the Agreement and Protocol upon their entry to force.

2. Authorization procedure for satellite facilities

2.1. As a general point of clarification, the Argentine Republic maintains no foreign ownership restrictions for satellite facility providers and telecommunications service providers. Furthermore, under the Treaty concerning the Reciprocal Encouragement and Protection of Investment between the United States of America and Argentina (Law No. 24,124) and Decision No. 350 COMFER [Federal Broadcasting Committee]/95, there are no limits on U.S. investment in broadcasting companies in the Argentine Republic.

2.2. The Argentine Administration requires authorization for the provision of satellite facilities. This authorization is obtained through a transparent and non-discriminatory process, consisting of:

2.2.1. Authorization to provide satellite facilities, granted *on a one-time basis* to applicants in the form of a decision by the Secretariat of Communications;

2.2.2. Authorization for one satellite, for the provider that has been authorized to provide satellite facilities.

2.3. These two steps occur simultaneously and cover the first satellite; thereafter, only applications for new satellites need be submitted.

2.4. In the Fixed-Satellite Service (FSS) and the Broadcast Satellite Service (BSS), the Secretariat of Communications is responsible for authorizing satellite facility providers.

2.4.1. Current regulations contain a number of restrictions on authorizing the provision of satellite facilities through satellites notified by other Administrations. This impediment will no longer be in effect once the Agreement and Protocol between the Governments of the United States of America and the Argentine Republic have been signed, under the terms set forth therein. There will thus be no impediment to granting U.S. satellites the appropriate

authorizations through an expeditious, clear, transparent, and non-discriminatory process between Argentine and U.S. satellite facility providers.

## 2.5. Requirements

2.5.1. As indicated in point 2.5.2.2., the general requirements of domestic regulations shall, by and large, be considered to have been met upon submission of the appropriate U.S. authorization. The Argentine Administration may request additional information or clarifications regarding some of the above-mentioned points, if necessary. This request shall serve the purpose of completing the information in our register of satellite facility providers, pursuant to Article IV.4 of the Agreement, and shall be limited to specific points.

2.5.2. The items required in order to obtain authorization to operate as a satellite facility provider are as follows:

2.5.2.1. Written application indicating the intent to provide satellite facilities, filed with the Secretariat of Communications;

2.5.2.2. Reliable proof of legal, economic, and technical capacity and corporate experience in the area in question. (This

item shall be considered satisfied upon submission of a certified copy of the license issued in the United States);

2.5.2.3. Designation of a technical representative to the National Communications Commission;

2.5.2.4. Proof of compliance with requirements for provision of commercial services in general, both by companies and by individuals, as indicated in Law 19,550;

2.5.2.5. Indication of satellite(s) to be authorized. It should be borne in mind that: a) authorizations are granted on a satellite-by-satellite basis, through an expeditious, transparent, and non-discriminatory procedure; b) this authorization requires submission of the general and technological features of each satellite. The technical information requirements will be considered satisfied if the international coordination process for the satellite has been concluded. If necessary, the Argentine Administration may request additional information or further clarification;

2.5.3. Argentine rules governing administrative procedures shall apply with respect to the completion of these formalities. Administrative and/or legal remedies are specified in current laws.

3. Estimated time periods

3.1. Under normal circumstances, the entire procedure takes approximately 30 days from the filing of the application until authorization is granted.

4. Related fees

4.1. The procedure for obtaining authorization to provide satellite facilities is free.

4.2. Once an applicant has been authorized to provide satellite facilities, the regulations require payment of a monitoring tax equaling 1 percent of the billing each time the services of a satellite facility are engaged for non-Argentine satellite facility providers. The applicable rules in this regard shall be consistent with the principle of non-discrimination established in the Agreement when it and its Protocol are signed.

5. Licenses for service providers

5.1. DTH-FSS or BSS

5.1.1. Authorization procedure for provision of television services via satellite

5.1.1.1. In accordance with the provisions of Law 22,285, entitled "Broadcasting," television services via satellite are regarded as supplemental broadcasting services

(Article 56), and are subject to prior licensing by the oversight authority, i.e., the Federal Broadcasting Committee.

5.1.1.2. Under the provisions of the Treaty concerning the Reciprocal Encouragement and Protection of Investment between the United States of America and the Argentine Republic, approved by Law 24,124, U.S. investments in broadcasting receive the same treatment in Argentina as those of domestic origin, and there are no limits on the percentage of capital contributed or on the number of U.S. individuals or legal entities participating in providing the service. The process is transparent and non-discriminatory.

5.1.1.3. The procedure for obtaining the license is provided in Decision 725/COMFER/91 (on Supplemental Services); Decision 350/COMFER/95, (on Foreign Persons); and Decision 817/COMFER/96, which regulates satellite services.

5.1.1.4. Current regulations contain a number of restrictions on the satellites to be used (Decision 817/COMFER/96, regarding satellite facility providers and the requirement

to lower signals to an earth station located in Argentine territory).

#### 5.1.2. Requirements

- 5.1.2.1. The requirements for obtaining a license generally consist of proof of adequate legal, personal, economic, and technical capacity to operate the service. Pertinent Argentine regulations govern these matters, particularly Decision 725/COMFER/91 and Decision 350/COMFER/95.

#### 5.1.3. Estimated time periods

- 5.1.3.1. Current regulations grant the administrative authority up to 150 business days (Article 27 of Decree 286/81). Nevertheless, if documentation is complete from the start, this time period may be significantly shortened.
- 5.1.3.2. To date, approximately 1,700 licensees have been registered for supplemental services.

#### 5.1.4. Related fees

- 5.1.4.1. Applicants for authorization must purchase a set of Specifications, at a cost of US\$70. License applicants must deposit 10 percent of the system assembly and



installation bond, the amount of which will vary depending on the number of residents in the service area, but will not exceed \$500,000. The remaining 90 percent will be paid after the license is granted, and bond insurance may be substituted for the initial deposit. Bond money will be returned to the licensee upon verification that the transmitter has been installed.

5.1.4.2. There will also be a fee of 6 or 8 percent on licensee billings for commercial activity; the amount of the fee will depend on whether the licensee transmits within or outside Buenos Aires.

5.1.5. Controls on programming and advertising

5.1.5.1. Licensees are subject to Federal Broadcasting Committee controls with regard to the programming they broadcast. Restrictions, designed to protect the nation's youth, prohibit the broadcasting, between 8 a.m. and 10 p.m., of material barred to minors under 18 years of age, or material containing gratuitous or excessive violence, or that which would incite to racial, social, religious, or any other type of discrimination. The

broadcasting of pornographic material is banned at any hour.

5.1.5.2. Currently, licensees must submit a list of satellite signals to be broadcast and ensure that their conduct is consistent with the provisions of Decision No. 897/COMFER/96.

5.1.5.3. Advertising is limited to no more than eight minutes per hour of programming.

5.1.5.4. Regulations relating to material shall be transparent, and controls and bans shall be applied in a uniform, non-discriminatory manner to all licensees, on an equal basis.

5.1.6. As indicated in point 1, the Agreement and its Protocol shall take precedence over any regulation or rule relating to licenses for DTH-FSS or BSS service providers that is inconsistent therewith. COMFER shall implement the pertinent provisions of the Agreement and Protocol upon their entry into force.

## 5.2. Non DTH-FSS

5.2.1. Telecommunications service providers in Argentina need a separate license from the authorization required for satellite facilities. These licenses are issued by the Secretariat of

Communications through a transparent and non-discriminatory process, governed, in large part, by CNT Decision No. 477/93.

5.2.2. For such purpose, interested parties shall submit a written application indicating their intent to operate the pertinent service.

5.2.3. They shall also submit an applicant history, and proof of the applicant's legal, corporate, economic, and technical capacity. They shall also attach the duly completed forms required under Decision No. 1835 CNT/95.

5.2.4. Applications are submitted to the CNC *Centro de Atención de Usuarios del Espectro Radioeléctrico* [Radio Spectrum Users' Center]; current rules governing administrative procedures shall apply.

5.2.5. Many licenses for the provision of satellite services are issued without regard to the means used to transport or distribute the service. It makes no difference, from a regulatory standpoint, whether a provider of a given service (for example, data transmission) uses his own network, public wired networks, or a private satellite network to provide the licensed service.

5.2.6. Estimated time periods

5.2.6.1. Licenses must be signed by the Secretary of Communications and senior CNC authorities. Given all the related internal processes, it usually takes approximately 30 days to issue a license.

5.2.7. Related fees

5.2.7.1. There shall be no charge for the processing of licenses.

5.2.7.2. Once the license has been granted, sworn statements of the billing by the service for which the license was granted must be submitted, on the basis of which the applicant shall pay the Monitoring and Inspection Tax, at the rate of 0.5 percent of the amount billed, for radio spectrum users. Payment may be made either on a monthly or quarterly basis (Decision No. 1835/95 CNT).

5.2.7.3. If the licensee of the service uses the radio spectrum, he must pay a fee for such use, which shall vary depending on the type of service, the stations involved, and the frequency used, etc. (Reference Regulation: Decision No. 10/95). The unit of measurement on the basis of which this fee is established is the UTR (*Unidad de Tasación Radioeléctrica*) [Radio Assessment Unit], valued today at \$23.5473. This value is adjusted twice

yearly (March 1 and September 1), based on the percentage corresponding to the six-month variation in the U.S. consumer price index published officially by the U.S. Department of Commerce.

5.2.8. At the present time, U.S. companies may obtain this type of license without restriction.

6. Authorization procedure for earth stations

6.1. Authorizations for earth stations in Argentina are issued through an expeditious, transparent, non-discriminatory, and non-discretionary procedure.

6.2. The authorization is designed to prevent interference harmful to the various domestic or international users of the same bands; hence, only a technical evaluation is conducted. Satellites authorized by the Administration must be used, except in the case of transportable earth stations for occasional use.

6.3. Types of stations. There are separate procedures for each of the following types of earth station:

6.3.1. Transmitting/receiving earth stations

6.3.1.1. In order to apply for the appropriate authorization, the interested party shall submit technical information

guaranteeing that no unacceptable interference will be caused and that satellite facilities authorized by the Argentine Administration will be used in operations conducted.

- 6.3.1.2. Given the fact that there are already users of the C band within Argentine territory, the appropriate interference calculations must be conducted in order to operate in this band. In the case of the Ku band, the procedure is simpler, as there is no need to conduct interference and coordination studies, inasmuch as there are no users (microwave stations) sharing the band. (In the case of the Ku band, there is frequency assignment exclusivity for the Fixed-Satellite Service).

#### 6.3.2. Remote stations

- 6.3.2.1. The procedure for using remote stations in Argentina involves the submission of a sworn statement containing the list of stations to be used, accompanied by the appropriate technical information on a magnetic medium. Depending on the size of the remote stations involved, the Administration may require the submission of interference calculations.

### 6.3.3. Transportable earth station

6.3.3.1. Due to the special nature of the service provided through this type of station, the procedure involved is very rapid. Submission of technical studies on interference is not required, but the characteristics of the transportable earth station must be submitted. The interested party must verify that no interference will be produced that might harm systems installed near the site of the earth station, inasmuch as it assumes the risks and liabilities regarding any interference that may occur.

### 6.3.4. TVRU/ARU stations (stations receiving radio and television signals via satellite)

6.3.4.1. Individual users that have this type of station for household use do not need to take any action with the regulatory agency. If they wish to obtain protection from interference, they may file the appropriate statement with the CNC.

## 6.4. Estimated time periods

6.4.1. The time periods for obtaining the appropriate authorization are approximately 1 month for a master station and roughly 15 days for remote stations.

6.5. Related fees

6.5.1. There shall be no charge for authorization of earth stations.

6.5.2. A monthly payment must be made for radio spectrum use based on "radio assessment units" (UTRs). For master and remote earth stations, the number of UTRs is derived from a formula that considers the assigned bandwidths, the number of frequencies, and the protected service areas. Consequently, it is difficult to estimate the number of UTRs a user would have to pay.

6.5.3. For transportable earth stations, an amount equaling 18 UTRs will be paid each month, per earth station.

6.5.4. For TVRU/ARU stations, if the user decides to register them, he must pay 1.24 UTRs per month. Otherwise, no payment is required.



7. The Argentine Administration hereby states that the time limits existing, pursuant to Decrees 62/90 and 264/98, on the grant of licenses for international data and voice transmission services shall not, in accordance with national provisions and Argentine commitments under the WTO Negotiations on Basic Telecommunications, remain in effect beyond November 8, 2000. The Argentine Administration further states that the principles and provisions of the *Reglamento General de Interconexión* [General Rules on Interconnection], and the principles the Administration has adopted in that regard in its WTO commitments, apply to all entities with telecommunications services licenses granted in the Argentine Republic.

Cordially,

[Signature]

José C. Aiello  
Comptroller  
Federal Broadcasting Committee

[Signature]

Germán Kammerath  
Secretary of Communications  
Office of the President



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

June 5, 1998

Dr. German Kammerath  
Secretary of Communications  
Republic of Argentina

Dear Secretary Kammerath:

1. I am pleased to refer to the Agreement between the Government of the United States of America ("United States") and the Government of the Argentine Republic ("Argentina") Concerning the Provision of Satellite Facilities and the Transmission and Reception of Signals to and from Satellites for the Provision of Satellite Services to Users in the United States and Argentina (the "Agreement") and its Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services and Fixed-Satellite Services in the United States and Argentina (the "Protocol"). In this letter, I will describe the rules and procedures in the United States that will govern Argentine satellite operators and satellite service providers upon the entry into force of the Agreement and Protocol.
2. According to Article VIII of the Protocol, the United States agrees to permit satellites licensed by Argentina to provide broadcasting satellite services ("BSS"), direct-to-home fixed satellite services ("DTH-FSS"), and other fixed-satellite services ("FSS") to, from and within the United States. According to Article V, Paragraph 2 of the Protocol, the United States agrees to apply its laws, regulations, rules, and licensing procedures in a transparent and non-discriminatory manner to satellites licensed by either Party and to all entities that apply for a license to transmit and/or receive BSS, DTH-FSS, or other FSS signals ("covered signals") via satellites licensed by either Party.
3. In light of these provisions, I wish to describe for you in detail how United States laws, regulations, rules and licensing procedures will apply to Argentine satellite operators and satellite service providers and how the Federal Communications Commission ("FCC") will treat applications by such operators and service providers to provide service to, from, and within the United States.
4. An entity wishing to uplink or downlink to, from, or within the United States via an Argentine-licensed satellite to provide BSS, DTH-FSS, or other FSS services must apply for a U.S. transmit and/or receive earth station license. We do not require Argentine-licensed satellite operators to be re-licensed as space station operators in the United States. Earth station applications shall be made on FCC Form 312. This form should be used when

applying for transmit/receive, transmit-only, and receive-only earth station licenses (including blanket licensing authority for a number of technically identical earth stations, such as for Very Small Aperture Terminal networks), as well as for modifications to existing earth station licenses, consistent with Title 47, U.S. Code of Federal Regulations ("CFR"), Part 25. Additionally, a fee must be filed with any application for earth station authorization. A fee schedule, FCC Form 312, and other pertinent information with regard to FCC filings are attached to this letter. Form 312 may be filed by either a space station or an earth station operator. After being deemed acceptable for filing, each application is placed on public notice, generally for a 30-day period, during which comments or petitions to deny may be filed. Petitions to deny must be reviewed and relevant legal and technical issues must be resolved prior to grant of the application. With regard to technical issues, earth station applications are reviewed to determine, *inter alia*, whether operations will be in compliance with required parameters such as antenna performance standards, antenna size, environmental impact (including radiation hazard standards), RF power conservation (eirp and eirp density), modulation formats, and antenna structure heights. An earth station license is granted for a term of ten years, subject to compliance with the terms and conditions of the license.

5. In the Commission's November 1997 Report and Order, entitled *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, FCC No. 97-399 ("*DISCO II*"), the FCC adopted rules governing applications from earth station operators wishing to communicate with satellites licensed by a country with which the United States has entered into a bilateral agreement covering particular satellite services. As an executive agreement between the Governments of the United States and Argentina, the Agreement constitutes such a bilateral agreement. As a result, the FCC will treat applications for earth stations to transmit and receive covered signals to and from satellites licensed by Argentina in the same manner as it will treat applications for earth stations to transmit and receive such covered signals to and from satellites licensed by the FCC, with the following procedural exception. *DISCO II* requires the licensing of receive-only earth stations receiving signals from an Argentine-licensed satellite (as stated in 47 CFR Section 25.131(j)); receive-only earth stations operating with a U.S.-licensed satellite, however, need not obtain a license, since all relevant information will already have been evaluated in connection with the licensing of the satellite. As a matter of practice, a provider can apply for both U.S. transmit/receive and receive-only licenses at the same time.

6. In addition to providing for the issuance of earth station licenses, *DISCO II* establishes the procedures for an Argentine satellite to participate in a U.S. space station "processing round" as a means of ensuring that an existing or planned Argentine satellite will have access to the orbit or spectrum resources needed to serve the United States. In order to participate in a space station processing round, an Argentine satellite operator may either 1) file an application in the manner described above for a U.S. earth station that would

communicate with the Argentine satellite or 2) file a "letter of intent" to use its Argentine-licensed satellite to provide service in the United States. Applicants will need to provide the technical, legal and financial information listed in 47 CFR Section 25.114. Financial information is not required if the Argentine satellite is in-orbit and operating, and technical information is not required if the international coordination process has been completed.

7. Section 100.11 of the Commission's rules addresses foreign ownership limitations relating to BSS (referred to as the Direct Broadcast Satellite Service ("DBS") in our rules) and tracks the text of Sections 310(a) and (b) of the Communications Act, which contain limitations on foreign ownership of U.S. radio licenses. Specifically, Section 310(a) prohibits foreign governments or their representatives from owning any U.S. radio license, and Section 310(b) places foreign ownership restrictions on broadcast and common carrier licenses (as well as aeronautical en route and aeronautical fixed radio station licenses). To date, no DBS licensee in the United States has been licensed as a broadcaster or common carrier; all licensees have been licensed as providers of subscription services. In its grant of a DBS license to MCI Telecommunications Corporation in 1996, the International Bureau held that because MCI's DBS authority was for subscription (*i.e.*, non-broadcast) video satellite service, Section 310(b) of the Communications Act and Section 100.11 of the Commission's rules did not apply. *MCI Telecommunications Corporation, Application for Authority to Construct, Launch and Operate a Direct Broadcast Satellite System at 110°W.L.* (Order), DA 96-1793 (1996). An application for review of that decision is currently pending before the Commission.

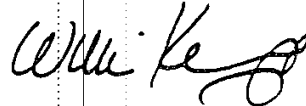
8. Unlike Part 100, Part 25 of the Commission's rules, which governs FSS, does not currently have specific rules limiting foreign ownership. Part 25 licensees, including DTH-FSS licensees, nevertheless remain subject to the statutory limits established in Sections 310(a) and (b). Since the foreign investment limits in Section 310(b) apply to broadcast and common carrier licensees, Part 25 licensees that do not operate as broadcasters or common carriers, as is generally the case, are not subject to the foreign ownership restrictions contained in Section 310(b). Furthermore, as a result of the World Trade Organization's Agreement on Basic Telecommunications Services, the United States has undertaken to allow up to 100% indirect foreign ownership in common carrier licensees, and the Commission has adopted rules to implement this undertaking in its November 1997 Report and Order entitled *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, FCC No. 97-398.

Dr. German Kammerath

Pg. 4

9. Please also find attached to this letter an Appendix in which we have responded to your specific questions about our regulatory procedures. I look forward to continuing to cooperate with Argentina on satellite and other telecommunications matters.

Sincerely,



William E. Kennard  
Chairman





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

APPENDIX

ANSWERS TO ARGENTINIAN QUESTIONS  
ABOUT UNITED STATES REGULATORY PROCEDURES

QUESTION 1

Please detail the procedures in the United States relating to the operation of satellites and the provision of satellite services that will be applied upon the signing of the Agreement and Protocol.

ANSWER: Please see attached letter for a detailed description.

QUESTION 2.1

Will Argentine satellite providers be classified as common carriers according to the same rules that apply to U.S. providers?

ANSWER: Yes, in the same, non-discriminatory fashion such classifications are applied to U.S. licensees. Please see the discussion of regulatory classifications in paragraphs 7-8 of the attached letter.

QUESTION 2.2

How soon could the United States hold a bilateral meeting to discuss satellite coordination after receiving such a request from Argentina?

ANSWER: We would strive to hold such a meeting as soon as practicable for both the United States and Argentina.

QUESTIONS 3.1-3.12

Upon the signing of the Agreement and Protocol, will the United States apply its laws, regulations, rules, and licensing procedures in a transparent and non-discriminatory manner to Argentine satellite operators and service providers with regard to the following matters?

QUESTION 3.1

Procedures for licensing satellite operators and service providers:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of attached letter.

QUESTION 3.2

Building, ownership, sale, or operation of any type of earth station:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of the attached letter.

QUESTION 3.3

Licenses to use particular radio frequencies:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of the attached letter, as well as the technical coordination procedures discussed in the Agreement and Protocol.

QUESTION 3.4

Operation of both domestic and international services:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of the attached letter.

QUESTION 3.5

Compliance with requirements of public interest, convenience and necessity:

ANSWER: Yes.

QUESTION 3.6

Nationality of licensees:

ANSWER: Please see paragraphs 7-8 of the attached letter.

QUESTION 3.7

Fees and charges:

ANSWER: Yes.

QUESTION 3.8

Procedures before the Commission and other U.S. administrative or legal authorities:

ANSWER: Yes.

QUESTION 3.9

Participation as an interested party in any public proceeding by the Commission relating to technical standards:

ANSWER: Yes.

QUESTION 3.10

Participation in Commission space station processing rounds:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of the attached letter.

QUESTION 3.11

Acquisitions and transfers of control of U.S. licensees:

ANSWER: Yes, subject to and in accordance with the rules and procedures detailed in paragraphs 4-8 of the attached letter.

QUESTION 3.12

Participation in auctions for DBS orbital locations:

ANSWER: Yes, subject to and in accordance with the rules detailed in paragraph 7 of the attached letter.